

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE NEW ENGLAND COMPOUNDING)
PHARMACY, INC. PRODUCTS LIABILITY)
LITIGATION)
_____)

MDL No. 2419
Dkt. No 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:)

All Cases)
)
)
)
_____)

TENNESSEE CLINIC DEFENDANTS'
MOTION TO AMEND AND CERTIFY ORDER FOR INTERLOCUTORY APPEAL

Defendants Saint Thomas Outpatient Neurosurgical Center, LLC; Howell Allen Clinic, A Professional Corporation; John Culclasure, MD; Debra Schamberg, RN, CNOR; and Vaughan Allen, MD (collectively "Tennessee Clinic Defendants") hereby move the Court, pursuant to 28 U.S.C. § 1292(b) and Fed. R. App. P. 5(a)(3), to amend its October 7, 2015, Order to include the § 1292(b) language necessary to allow the Tennessee Clinic Defendants to petition to the First Circuit for an appeal of (1) the Court's ruling that "related to" jurisdiction exists and (2) the Court's ruling that it will try these cases in Massachusetts under 28 U.S.C. § 157(b)(5) after technically remanding the cases to Tennessee pursuant to 28 U.S.C. § 1407.

Certification of this Court's October 7, 2015, Order pursuant to 28 U.S.C. § 1292(b) is appropriate because the decision involves a controlling question of law as to which there is substantial ground for difference of opinion and an immediate appeal from the Order may materially advance the ultimate termination of this litigation.

For the reasons set forth in the contemporaneously-filed Memorandum of Law in Support of the Motion to Amend and Certify Order for Interlocutory Appeal, the Tennessee Clinic Defendants respectfully request that the Court enter an Amended Order certifying it for interlocutory appeal pursuant to the necessary conditions set forth in 28 U.S.C. § 1292(b).

Respectfully submitted,

GIDEON, COOPER & ESSARY, PLC

/s/ Chris J. Tardio

C.J. Gideon, Jr.*

Chris J. Tardio*

Alan S. Bean**

Matthew H. Cline*

315 Deaderick Street, Suite 1100

Nashville, TN 37238

Ph: (615) 254-0400

Fax: (615) 254-0459

chris@gideoncooper.com

***Attorneys for the Tennessee Clinic
Defendants***

* Admitted pursuant to MDL Order No. 1.

** Admitted *pro hac vice*.

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be served electronically to the registered participants identified on the Notice of Electronic Filing and copies will be e-mailed or mailed via regular U.S. mail to those participants identified as unregistered this 26th day of October, 2015.

/s/ Chris J. Tardio

Chris J. Tardio